

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JUDGE: Richard Schell

COURT REPORTER:
Jerry Kelley

COURTROOM DEPUTY:
Bonnie Sanford

ALBRITTON

vs.

NO. 6:08cv89

CISCO SYSTEMS, INC. ET AL

PLAINTIFF: Nick Patton, James Holmes, Patricia Peden, Eric Albritton, Derek Palisoul

DEFENSE: Charles Babcock, Bill Friedman, David Moran, Crystal Parker, George McWilliams, Rick Frenkel, Jason Bloom, Tim Herndon, Brent Howard

GOV'T Assistant U.S. Attorney, Thomas Gibson

This day came the parties and by their attorneys the following proceedings were held before Judge Richard Schell in Tyler, Texas on 9/14/2009:

9:08 am The court called the case, noting the appearance of counsel and parties.

9:17 am The court addresses pending matters.

9:42 am Voir Dire begins.

10:26 am Mr. Patton questions the jury panel.

10:50 am Mr. Babcock questions the jury panel.

11:12 am Mr. McWilliams questions the jury panel.

11:21 am	The court begins individual questioning of jurors.
11:46 am	Recess for 20 minutes.
12:13 pm	Court resumes.
12:15 pm	The jury panel is brought into the courtroom.
12:19 pm	The names of the 10 jurors are read.
12:20 pm	The remaining jurors are dismissed.
12:21 pm	The oath is given to the jurors.
12:22 pm	The court gives directions to the jury.
12:33pm	The rule is invoked.
12:34 pm	Court recessed until 1:45 pm.
2:04 pm	Court resumes.
2:06 pm	Amy Mathis and Peter McAndrews are sworn in and told that the rule is invoked.
2:07 pm	The jury is brought into the courtroom. The court addresses the jury.
2:10 pm	Opening statements by Mr. James Holmes.
2:34 pm	Opening statements by Mr. Charles Babcock.
2:53 pm	Opening statements by Mr. George McWilliams.
3:09 pm	Mr. Holmes calls witness Peter McAndrews
3:50 pm	Court recesses for 15 minutes.
4:09 pm	Court resumes.
4:19 pm	Cross-exam by Mr. Babcock.
5:09 pm	Cross-exam by Mr. McWilliams.
5:26 pm	Re-direct by Mr. Holmes.

5:31 pm Re-cross by Mr. Babcock.
5:33 pm Witness excused.
5:35 pm Court recessed until 9:00 am Tuesday, September 15, 2009.

DAY TWO - TUESDAY, SEPTEMBER 15, 2009

9:01 am Court resumes. The court takes up matters outside the presence of the jury.
9:04 am Mr. Holmes calls plaintiff's witness Amie Mathis, who was previously sworn in.
9:06 am The jury is brought into the courtroom.
9:07 am Mr. Holmes begins direct exam of Amie Mathis.
9:18 am **Exhibit 197 shown.**
9:24 am **Exhibit 32 shown.**
9:37 am **Exhibit 251 shown.**
9:42 am Cross-exam by Mr. Babcock.
9:56 am **Exhibit 13, 87, 14, 22 shown.**
10:21 am Cross-exam by Mr. McWilliams.
10:35 am Re-direct by Mr. Holmes.
10:38 am **Exhibit 185 shown.**
10:43 am Re-cross by Mr. McWilliams
10:45 am **Exhibit 255, 224 shown.**
10:48 am Re-direct by Mr. Holmes.
10:49 am Witness excused. Court recessed for 15 minutes.
11:08 am Court resumes. David Maland is sworn in.

11:10 am The jury is brought into the courtroom.

11:11 am Mr. Holmes calls plaintiff's witness David Maland.

11:25 am **Exhibit 433, 10, 216 shown.**

12:01 pm Court recesses until 1:15 pm.

1:17 pm Court resumes. Mr. Holmes continues direct exam of witness David Maland.

1:25 pm **Exhibit 32, 87, 251 shown.**

1:52 pm Cross-exam by Mr. Babcock.

2:00 pm **Exhibit d87, p207, d86, d93, d188, 161(?) shown.**

2:33 pm Cross-exam by Mr. McWilliams.

2:56 pm Re-direct by Mr. Holmes.

2:57 pm Re-cross by Mr. Babcock.

3:04 pm Re-cross by Mr. McWilliams.

3:06 pm Witness excused.

3:07 pm Court recesses for 15 minutes.

3:33 pm Court resumes. Ms. Peden calls plaintiff witnesses Jillian Powell and Kurt Pankratz. Both witnesses are sworn in.

3:35 pm The jury is brought into the courtroom. Ms. Peden begins direct exam of witness Jillian Powell.

4:05 pm **Exhibit 308, 251 shown.**

4:10 pm Cross-exam by Mr. Moran.

4:20 pm Cross-exam by Mr. McWilliams.

4:21 pm Re-direct by Ms. Peden.

4:22 pm Witness excused.

4:23 pm Plaintiff calls witness Mr. Kurt Pankratz, who was previously sworn. Mr. Patton begins direct exam of Mr. Pankratz.

4:44 pm **Exhibit 249, 214 shown.**

5:19 pm Court recessed until 9:00 am Wednesday, September 16, 2009.

DAY THREE - WEDNESDAY, SEPTEMBER 16, 2009

9:02 am Court resumes. Juror #7 is released due to medical emergency.

9:04 am The jury is brought into the courtroom.

9:06 am Cross-exam of witness Kurt Pankratz by Mr. Moran.

9:11 am **Exhibit #9 shown.**

9:21 am Cross-exam of witness Kurt Pankratz by Mr. McWilliams

9:25 am Jury taken out of the courtroom. Matters taken up outside the jury's presence.

9:29 am Jury brought into the courtroom. Mr. McWilliams resumes cross-exam of witness.

9:31 am Re-direct by Mr. Patton.

9:53 am Jury taken out of the courtroom. Matters taken up outside the jury's presence.

9:57 am Jury brought into the courtroom. Mr. Patton resumes re-direct of witness.

10:00 am **Exhibit 335 shown.**

10:07 am Re-cross by Mr. McWilliams.

10:14 am Re-direct by Mr. Patton.

10:16 am **Exhibit 337 shown.**

10:18 am Re-cross by Mr. McWilliams.

10:19 am Re-direct by Mr. Patton.

10:20 am Witness excused. Court recesses for 15 minutes.

10:40 am Mr. Patton calls plaintiff's witness Mr. Richard Frenkel. Witness is sworn in.

10:42 am	The jury is brought into the courtroom. Mr. Patton begins direct-exam of witness.
10:56 am	Exhibit 214, 335, 298, 242, 370, 270, 250, 273 shown.
12:02 am	Court recesses jury for lunch until 1:15 pm. Court takes up matters outside the jury's presence.
12:11 pm	Court recessed until 1:15 pm
1:16 pm	Court resumes.
1:19 pm	The jury is brought into the courtroom. Mr. Patton resumes direct-exam of Mr. Frenkel.
1:29 pm	The jury is taken out of the courtroom. Court and counsel take up matters outside the jury's presence.
1:39 pm	The jury is brought into the courtroom. Mr. Patton resumes direct-exam of Mr. Frenkel.
1:48 pm	Exhibit 162, 395 shown.
2:06 pm	Cross-exam by Mr. McWilliams.
2:22 pm	Exhibit 356, 336 shown.
2:38 pm	Cross-exam by Mr. Babcock.
2:44 pm	Exhibit d11 shown.
2:54 pm	Re-direct by Mr. Patton.
3:08 pm	Re-cross by Mr. McWilliams.
3:09 pm	Court recesses the jury for 15 minutes. Court and counsel take up matters outside the presence of the jury.
3:22 pm	Court recessed.
3:37 pm	Court resumes. Mr. Patton calls plaintiff's witness T. John Ward, Jr. The witness is sworn in.
3:53 pm	Exhibit 214, 251, 356 shown.

4:30 pm Cross-exam by Mr. Babcock of witness T. John Ward.

4:35 pm **Exhibit 81, 13 shown.**

5:05 pm Cross-exam by Mr. McWilliams.

5:16 pm Re-direct by Mr. Patton. **Exhibit 189, 304 shown.**

5:20 pm Witness excused. Court recessed until 9:00 am Thursday, September 17, 2009. Mr. Ward excused from the rule.

DAY FOUR - THURSDAY, SEPTEMBER 17, 2009

8:58 am Court resumes. The court takes up matters outside the jury's presence.

9:06 am Mr. Holmes calls plaintiff witnesses Eric Albritton and Bill Friedman. Witnesses are sworn in.

9:07 am The jury is brought into the courtroom.

9:09 am Direct-exam of Mr. Friedman by Mr. Holmes.

9:16 am **Exhibit 251, 534 shown.**

9:21 am Cross-exam by Mr. Babcock.

9:25 am Cross-exam by Mr. McWilliams.

9:26 am Re-direct by Mr. Holmes.

9:29 am Re-cross by Mr. McWilliams.

9:30 am Witness is excused.

9:31 am Mr. Holmes calls plaintiff witness Eric Albritton.

9:43 am **Exhibit 358, 214, 335 shown.**

9:58 am Cross-exam by Mr. Babcock.

10:10 am The jury is taken out of the courtroom. Court and counsel take up issues outside the jury's presence.

10:37 am Court recessed for 15 minutes.

11:03 am Court resumes. The jury is brought into the courtroom.

11:04 am Mr. Babcock resumes cross-exam of Mr. Albritton.

11:18 am **Exhibit 321, 298, 270 shown.**

11:52 am Cross-exam by Mr. McWilliams.

12:06 pm Witness is excused.

12:08 pm Jury recessed until 1:30 pm.

12:12 pm Court recessed.

1:35 pm Court resumes. Mr. Holmes recalls Mr. Albritton. The jury is brought into the courtroom.

1:36 pm Re-direct by Mr. Holmes.

1:37 pm Witness is released. **The plaintiff rests.**

1:38 pm The jury is taken out of the courtroom.

1:38 pm Mr. Moran presents to the court a Motion for Judgment as a Matter of Law.

1:39 pm Mr. Moran addresses the court regarding the Motion for Judgment as a Matter of Law.

1:58 pm Ms. Peden responds to the arguments for the Motion for Judgment as a Matter of Law.

2:03 pm Mr. Moran addresses the court.

2:16 pm Ms. Peden addresses the court.

2:30 pm Mr. Holmes addresses the court.

2:40 pm Mr. Babcock addresses the court.

3:02 pm On behalf of Mr. Frenkel, Mr. McWilliams adopts the arguments of Mr. Moran and Mr. Babcock.

3:04 pm Mr. Babcock calls defense witness Shelly Moore. The witness is sworn in.

3:07 pm **Exhibit d87 shown.**

3:15 pm Cross-exam by Mr. McWilliams.

3:19 pm **Exhibit d224, d117 shown.**

3:22 pm Cross-exam by Mr. Holmes.

3:24 pm Witness excused.

3:25 pm Mr. Babcock calls Michelle Albritton by video deposition.

3:37 pm The defendant Cisco and defendant Frenkel rests.

3:38 pm The defense renews their Motion for Judgment as a Matter of Law.

3:39 pm The court addresses the jury.

3:40 pm The court releases the jury until Tuesday, September 22, 2009 at 9:00 am.

3:49 pm Counsel released until Monday, September 21, 2009 at 9:00 am.

DAY FIVE - MONDAY, SEPTEMBER 21, 2009

9:29 am Court resumes. Court takes up briefs on Motion for Judgment as a Matter of Law.

Point #1 denied, #2 denied, #3 denied, #4 denied, #5 denied, #6 denied, #7 granted, #8 denied, #9 denied.

11:28 am Court takes up matters regarding giving copies of exhibits to the press.

11:33 am Court recessed until further notice. Court will call parties.

4:07 pm Court resumes. The court takes up matters with counsel. Court to e-mail jury charge to parties. Court to resume at 9:00 am, Tuesday morning.

4:10 pm Court recessed.

DAY SIX - TUESDAY, SEPTEMBER 22, 2009

9:09 am The jury is brought into the courtroom.

9:10 am The court addresses the jury and informs them that the case has been settled and the parties have resolved the case among themselves.

9:17 am Court adjourned.

